

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUSTIN ALLEN DAVEY, *et al.*,

Plaintiffs,

v.

PIERCE COUNTY COUNCIL, *et al.*,

Defendants.

CASE NO. C21-5068-JCC

ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Mary Alice Theiler, United States Magistrate Judge (Dkt. No. 25).

Plaintiffs Justin Allen Davey and Ezra Fleming-Ralston filed a proposed civil rights complaint under a single cause of action. (Dkt. Nos. 1-1, 7-1.) Plaintiffs allege violations of their constitutional rights related to plumbing and sewer conditions in their unit at the Pierce County Jail. (*Id.*) Judge Theiler recommends the Court dismiss the second-named plaintiff, Mr. Fleming-Ralston, without prejudice to instituting a separate lawsuit; the first-named plaintiff, Mr. Davey, would then proceed as the sole plaintiff in this action. (Dkt. No. 25 at 2.) Judge Theiler also recommends the Court strike Mr. Fleming-Ralston’s motion to proceed IFP, the IFP applications filed by non-parties, and the motion to amend the complaint and the proposed amended complaint, and order Mr. Davey to file an amended complaint within 30 days addressing only his individual claims. (*Id.*) Neither Mr. Davey nor Mr. Fleming-Ralston object, and Mr. Davey has

1 already filed an amended complaint addressing only his individual claims. (*See* Dkt. No. 26 at 3.)

2 Having thoroughly considered the R&R, the lack of objections thereto, and the relevant
3 record, the Court ORDERS:

- 4 1. The Court ADOPTS the R&R (Dkt. No. 25).
 - 5 2. Pursuant to Federal Rule of Civil Procedure 21, the second-named plaintiff, Ezra
6 Fleming-Ralston, is DISMISSED without prejudice to instituting a separate lawsuit.
 - 7 3. Mr. Fleming-Ralston's motion to proceed *in forma pauperis* ("IFP") (Dkt. No. 7),
8 non-parties Justin D. Mohler's and Roger Woodard's applications to proceed IFP
9 (Dkt. Nos. 13, 14), Plaintiff's motion to amend the complaint (Dkt. No. 8), and the
10 proposed amended complaint (Dkt. No. 15) are STRICKEN.
 - 11 4. If he chooses to re-file his claims, Mr. Fleming-Ralston shall proceed in a separate
12 case, file a new complaint addressing only his individual claims, and pay a new filing
13 fee or file an application to proceed IFP.
 - 14 5. The matter is referred back to the Honorable Mary Alice Theiler for further
15 proceedings.
 - 16 6. The Clerk is directed to send copies of this Order to the parties and to Judge Theiler.
- 17 DATED this 28th day of April 2021.

18
19
20 

21 John C. Coughenour
22 UNITED STATES DISTRICT JUDGE
23
24
25
26